

040-63

NAME AND ADDRESS OF ATTORNEY JAY D. HANSON, FSO. GRAY, CARY, AKES & FRYE 2100 UNION BANK BUILDING SAN DIEGO, CALIFORNIA 92101 ATTORNEY FOR		TELEPHONE NO. (714) 276-1661	FOR COURT USE ONLY REC'D - 12 JAN 1982 SEP 8 - 1982 SCHMIDT
Insert name of court, judicial district or branch court, if any, and post office and street address SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO			
PLAINTIFF MCGREGOR SEA & AIR SERVICES (AMERICA) INC.			
DEFENDANT CINEMATRONICS, INCORPORATED			
APPLICATION AND NOTICE OF HEARING FOR ORDER <input checked="" type="checkbox"/> TO SET ASIDE RIGHT TO ATTACH ORDER, QUASH WRIT OF ATTACHMENT AND RELEASE ATTACHED PROPERTY, alternatively, <input checked="" type="checkbox"/> TO RELEASE ATTACHED PROPERTY EXCEEDING IN VALUE THE AMOUNT TO BE SECURED <input type="checkbox"/> TO SUBSTITUTE DEFENDANT'S UNDERTAKING FOR PROPERTY <input type="checkbox"/> TO INCREASE PLAINTIFF'S UNDERTAKING <input type="checkbox"/> TO DETERMINE SUFFICIENCY OF PLAINTIFF'S SURETIES EX PARTE APPLICATION FOR ORDER <input type="checkbox"/> TO DISCHARGE ATTACHMENT AND RELEASE PROPERTY LEVIED UPON <input type="checkbox"/> TO RELEASE PROPERTY LEVIED UPON DUE TO FILING OF UNDERTAKING ON APPEAL			CASE NUMBER 491479

- 1 ☒ To plaintiff (Name) MCGREGOR SEA & AIR SERVICES, INC., and its attorney C. BRADLEY HALLEN
 You are notified that a hearing on defendant's application in item 2 will be held on
 Date **SEP 9 1982** Time **3:00 PM** ☒ Dept ☐ Div ☐ Room No.
- 2 ☒ Resident ☐ Nonresident defendant (Name):
 makes application for an order
- a. ☐ (1) to set aside the Right to Attach Order issued on (Date): September 3, 1982
 (2) to quash the Writ of Attachment issued on (Date) September 3, 1982
 (3) to release the attached property of the defendant described in the writ
- b. ☐ to substitute an undertaking in the amount of \$ _____ in lieu of
 (1) ☐ all of defendant's property which has been attached or is subject to attachment
 (2) ☐ the following portion of defendant's property which has been attached or is subject to attachment
 (a) Value \$ _____
 (b) Description _____
- c. ☐ for the release of the following attached property to the extent that the value of defendant's interest in the property clearly exceeds the amount necessary to satisfy the amount to be secured by the attachment
 (1) Value \$ 7,876,000
 (2) Description All corporate property excepting 150 printed circuit boards with a book value in excess of \$87,807.13.

(Continued on reverse side)

The word "plaintiff" includes cross-complainant; "defendant" includes cross-defendant; singular includes the plural and vice versa; includes farming and rearing. The declaration under penalty of perjury must be signed in California, or in a state that authorizes use of a declaration in place of an affidavit otherwise an affidavit is required.

d ☐ to increase the amount of plaintiff's undertaking on the following grounds (CCP 489 080, 489 220)
(Specify)

e ☒ to determine the sufficiency of sureties on the following grounds (Specify) We have no evidence that any bond or undertaking has been filed to support this attachment.

f ☐ to discharge attachment and release property levied upon on the grounds that defendant recovered judgment in the action Plaintiff has not filed and served a timely motion for vacation of judgment or for judgment notwithstanding the verdict or for a new trial, nor has plaintiff perfected an appeal, nor has plaintiff filed the undertaking required by CCP 921.

g ☐ to release defendant's property levied upon due to the stay of enforcement of plaintiff's judgment upon defendant's filing of an undertaking on appeal

3 ☐ Defendant's title to the property described in item ☐ 2b (1) ☐ 2b (2), and the manner of its acquisition, is set forth in ☐ attached affidavit ☐ following facts.

4 ☐ No defendant other than the applicant has an interest in the property described in item ☐ 2b (1) ☐ 2b(2).

5 ☐ Nonresident defendant's application is made on the grounds of a general appearance and defendant states

a ☐ the Right to Attach Order was issued pursuant to CCP 492 010

b ☐ a general appearance was filed in this action on (Date)

c ☐ This application is the first appearance of the defendant

6 ☒ Defendant's application is supported by

a ☒ attached affidavit

b ☐ following facts

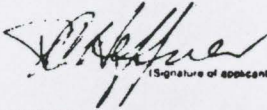
c ☒ attached points and authorities

d ☐ following points and authorities

Dated September 8, 1982

CINEMATRONICS, INCORPORATED

(Type or print name of applicant)


(Signature of applicant)

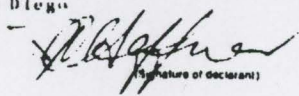
By Donald C. Heffner, Corporate Secretary
(Name and title)

7 ☐ All facts contained herein are within the declarant's personal knowledge as shown by the following

DECLARATION

I certify (declare) under penalty of perjury that the foregoing is true and correct and that this declaration is executed on (Date) 9/8/82 at (Place) San Diego California

Donald C. Heffner
(Type or print name)


(Signature of declarant)

8 Total number of pages attached 10

DECLARATION OF AL REEDER

1. AL REEDER, declare as follows:

1. That I am Vice President of Manufacturing for Cinematronics, Incorporated.

2. That I did have discussions with George Hartford of West Coastronics regarding the sale of obsolete inventory of Cinematronics.

3. That the immediate item to be sold were 2716 Erasable Proms. These items were obsolete because Cinematronics has gone to the expanded memory of 32K PROMS for use in the new hardware system devised by Cinematronics for use in its future electronic video games.

4. That the asking price was \$1.75 versus a current market price for new product of approximately \$2.00. This in turn would allow the item to be erased and thus could be utilized by a different manufacturer.

5. That a list of items which could become obsolete was given to Mr. Hartford for his consideration. I had no other contact with Mr. Hartford except that Mr. Hartford did call approximately one week later requesting further electrical information on obsolete DAC-80's. I did not return his call.

6. That at no time was an offer of \$.20 on the dollar for inventory in the possession of Cinematronics ever offered.

As a matter of fact, he made no offer at any price for \$100,000 inventory. The only offer tendered was on the 2716 E PROMS at \$.25 each. My asking price was \$1.75. The 2716's mentioned above were never sold and remain in Cinematronics' inventory.

7. That I, in my capacity as Vice President of Manufacturing, would know of any sale of inventory, and presently, there are no plans for sale of inventory at reduced prices, only obsolete inventory is for sale. As a matter of fact, Cinematronics is in the process of developing and designing new electronic video games which will use a major portion of the Company's inventory of Printed Circuit Boards, Integrated Circuits and other related components. Present plans for production on such games is to utilize 85% of existing electronic inventory, and production of such a game utilizing such inventory is scheduled to begin in late October.

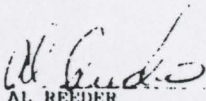
8. That at the present time, no production is ongoing at Cinematronics because the games to be produced in the future are still being developed, and we are in our industry-wide seasonal slump; but as stated above, production is scheduled to begin in late October.

9. The list delivered to Mr. Hartford was at his request. In as much at the time of his visit, my only interest was to sell obsolete 2716 E PROMS. The list did contain items not for sale because it was the only inventory list available to me at the time.

10. That I did explain to Mr. Hartford that only certain items were for sale, specifically, the 2716 E PROMS.

I declare under penalty and perjury the foregoing is true and correct.

Executed this 8th day of September, 1982, at San Diego, California.



AL REEDER

Vice President of Manufacturing

DECLARATION OF JIM PIERCE

I, JIM PIERCE, declare as follows:

1. THAT, I am President and Chairman of the Board of CINEMATRONICS, INCORPORATED, and had a meeting with JAMES CESPED and other representatives of MCGREGOR SEA & AIR SERVICES, INC., on June 29, 1982.

2. THAT, a discussion was had regarding the present cash flow position of the Company, and I explained that because of the cash flow crisis, the debt to MCGREGOR SEA & AIR SERVICES, INC., could not be paid in full this date, June 29, 1982.

3. THAT, I did agree that CINEMATRONICS, INC., would use its best efforts to make payments when cash flow permitted and review the cash flow on a weekly basis to see if there were funds that could be paid towards the debt.

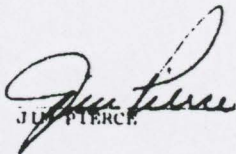
4. THAT, MR. CESPED requested a payment of half the debt which he then reduced to TWENTY-FIVE THOUSAND DOLLARS (\$25,000). I explained this was impossible, but that a payment of TEN THOUSAND DOLLARS (\$10,000) could be made if MCGREGOR SEA & AIR SERVICES, INC., agreed to wait six (6) months for the balance.

5. THAT, this was agreed to by MR. CESPED and the payment of TEN THOUSAND DOLLARS (\$10,000) was made based on this agreement.

6. THAT, attached hereto is a letter dated June 29, 1982, confirming said agreement. My letter of June 29 was answered by Mr. CESPED confirming the agreement. A further confirmation of the initial agreement of settlement of the debt over the six-month (6-month) period is contained in their letter of August 6, 1982, addressed to the Company and signed by MR. CESPED, a true copy of which is attached hereto.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 8th day of September, 1982, at
El Cajon, California.


JIM PIERCE

McGregor Sea & Air Services Ltd.
International Freight Forwarding

American Division

Company Office
1440 14th Street
Burlingame, CA 94010 U.S.A.
Telephone (415) 691-7500
Telex 172139

MAILING ADDRESS
P.O. Box 200
San Francisco, CA 94101 U.S.A.

AUG 09 REC'D

MSAS

August 6, 1982

CINEMATRONICS, INC.
1841 Friendship Drive
El Cajon, California 92020-9981

Attention: Mr. Jim Pierce

Dear Mr. Pierce:

Further to my conversation with Mr. Orsban today, I wish to inform you that we will be taking legal action against Cinematronics for the collection of monies (\$87,807.13) owed to McGregor Sea & Air Services Ltd.

I regret that we no longer can adhere to our initial agreement of settlement of these monies within six months. It is my personal belief that you will succeed in the recovery of Cinematronics and I do not relish giving you this extra burden. However, in the best interest of our company, it has been decided to pursue this course.

Hopefully you will see our position.

Sincerely yours,

James F. Cesped
Senior Vice President - Import Division
AMERICAN DIVISION

cc: Messrs. R. J. Hackett/ADIV
H. Hallen/SAN
W. Gonzalez/LAX

JPC/pmo

American Division includes the following:
McGregor Sea & Air Services Ltd.
McGregor Sea & Air Services (America) Inc.



AMERICAN DIVISION
1440 14th Street
Burlingame, CA 94010 U.S.A.
Telephone (415) 691-7500
Telex 172139